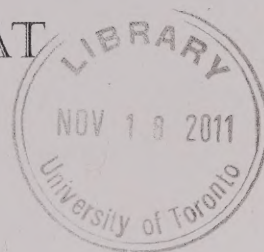


SENATE



CANADA

SÉNAT



# DEBATES OF THE SENATE

---

1st SESSION

•

41st PARLIAMENT

•

VOLUME 148

•

NUMBER 20

---

OFFICIAL REPORT  
(HANSARD)

Wednesday, October 19, 2011

The Honourable NOËL A. KINSELLA  
Speaker

## CONTENTS

(Daily index of proceedings appears at back of this issue).

*Debates Services:* D'Arcy McPherson, National Press Building, Room 906, Tel. 613-995-5756  
*Publications Centre:* David Reeves, National Press Building, Room 926, Tel. 613-947-0609

Published by the Senate  
Available from PWGSC – Publishing and Depository Services, Ottawa, Ontario K1A 0S5.  
Also available on the Internet: <http://www.parl.gc.ca>





## THE SENATE

Wednesday, October 19, 2011

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

[Translation]

### SENATORS' STATEMENTS

#### MENTAL ILLNESS AWARENESS WEEK

**Hon. Roméo Antonius Dallaire:** Honourable senators, last week was Mental Health Week, during which we saw a number of innovative ideas across the country. I would like to make special mention of the efforts of CTV's *Canada AM*.

[English]

Throughout that week, for nearly two hours at a time, *Canada AM* held discussions on the subject of mental illness and the ramifications that it has in the country. One particular day, a Wednesday, they spent two hours discussing suicide. The debate was whether to hide suicide or whether to recognize that this mental health issue can, for those who are affected by it and/or those who are suffering from operational stress injuries, bring on death — of course, at the sufferer's own hand.

This is breaking new ground. This is recognizing that we are taking casualties, among our youth and our middle-aged, and in areas of employment where strength of character must be demonstrated, such as our police officers, firefighters and soldiers. We are recognizing that these injuries and these casualties are real and that there must be an instrument of prevention brought forward through more progressive research.

We have lost 157 soldiers in Afghanistan. That is not the real figure. We have lost probably over 187 soldiers in Afghanistan, for there is anecdotal evidence that says that at least 30 have committed suicide since they have returned due specifically to the injuries that they incurred through trauma and operational stress in the field. That is the real figure, and that is the continuing figure.

Under that concept, I can again take the opportunity to applaud an innovation and an initiative by the Lieutenant Governor of Alberta, Col. (Ret'd) Donald Ethell, who created the Circle on Mental Health and Addiction. What an extraordinary idea: a circle, instead of something confrontational, in which all the players — civilian, therapeutic and those who are potential clients — get together to fight the stigma of mental health problems in their society, to help people to come forward and also to push therapists to sell their product.

It is interesting to note that there have been massive advances in the institutions of our society. Probably one of the most conservative institutions, the military, has made massive advances in recognizing operational stress injury and in trying to diagnose and cure those suffering from that injury.

That Darwinian organization has taken itself in hand and has significantly reformed itself. How come the NHL cannot even come close? How can people — dinosaurs — articulate comments like those we heard on CBC, made by a well-known gentleman who is talking through his hat, who is talking the way the commanders in the 1980s and 1990s talked about this operational stress injury, calling the soldiers "wimps," while in fact they were the bravest of the brave?

[Translation]

#### 2011 NOBEL PEACE PRIZE LAUREATES

**Hon. Suzanne Fortin-Duplessis:** Honourable senators, three extraordinary women from Liberia and Yemen were awarded the Nobel Peace Prize for their non-violent struggle for the safety of women and for women's rights to full participation in peace-building work. This prestigious distinction, acclaimed by the international community, is largely seen as a victory for women, for Africa and for the Arab world.

It sends a strong message of support for the real emancipation of women in developing countries and recognition of the vital role women play in advancing peace, safety and human rights.

The chairman of the Norwegian Nobel Committee, Mr. Jagland, said that for democracy and sustainable peace to be created in the world, men and women must be equal and work together to build a democratic society.

Tawakkul Karman, a 32-year-old Yemeni woman, chairs the organization Women Journalists without Chains and is the first Arab woman to win the Nobel Peace Prize. She played a key role in the student protests that took place in late January 2011 against the President of Yemen, following the Tunisian and Egyptian uprisings. She has become known as the "Mother of the Revolution." She dedicated the Nobel Prize to the revolutionaries of the Arab Spring in Egypt, Tunisia and Libya, whose heads of state were all ousted, and to the revolution in Syria, which, as in Yemen, has been continuing for months.

Ellen Johnson Sirleaf, who in 2005 became the first democratically elected female head of state in Africa, set to work to rebuild a country ravaged by two civil wars that took the lives of approximately 250,000 people and left a flagging economy. She is a former senior executive of the World Bank and Citibank and has earned the moniker "Iron Lady" for her determination and her courage in standing up to warlord Charles Taylor.

Leymah Gbowee is a social worker and peace activist who organized a movement of Christian and Muslim women to oppose the warlords in Liberia. She spoke out publicly against the use of child soldiers and helped bring an end to the civil wars that ravaged Liberia until 2003. Notably, she led a sex strike where the women of Liberia refused to have intimate relations with their husbands until they laid down their arms.



I salute the efforts of each of these women to end civil war in their respective countries and to work for development within a democratic framework that respects the rights of women. I would like to sincerely congratulate them from the bottom of my heart on having overcome tremendous obstacles in their quest for peace and democracy.

• (1340)

[English]

## DRUG TREATMENT PROGRAMS

**Hon. Larry W. Campbell:** Honourable senators, I rise today to congratulate the government.

**An Hon. Senator:** Bravo.

**Senator Campbell:** I bring a little love to this august chamber.

**Senator Mercer:** I can feel the love.

**Senator Campbell:** The government is endorsing a groundbreaking trial on heroin addiction treatment. Known as SALOME, the trial aims to determine whether hydromorphone, a legal opiate, can be used effectively to wean injection users off heroin. The trial will use both heroin and hydromorphone to help addicts get through treatment programs and beat their addiction. Researchers hope the results of the trial will help more heroin addicts successfully get off this drug. This will be a great step forward for the treatment of addiction in Canada.

I also applaud the government for accepting the recent decision of the Supreme Court of Canada regarding the Insite safe injection facility.

The Supreme Court's decision was to uphold the exemption to the Controlled Drugs and Substances Act that allows Insite to operate. Ultimately, Insite will stay open because it saves lives.

I hope the government will further support similar harm reduction initiatives in the name of public health. Again, I congratulate them on these two initiatives.

## MACKENZIE GAS PROJECT

**Hon. Dennis Glen Patterson:** Honourable senators, I rise today to speak of the Mackenzie Gas Project. This project was first conceived over 40 years ago, and now its time has come. The project received rigorous environmental review and was given a certificate by the National Energy Board earlier this year.

There is a market for clean natural gas from Canada's Western Arctic. Overall, conventional gas production in Western Canada has been declining. Even with shale gas, production has not kept up with demands, which include Canada's commitment to reduce greenhouse gas emissions by converting 33 coal-fired electrical generators to an alternative fuel by 2020. Meeting Canada's new emissions standards requires new supplies of natural gas. The Mackenzie Gas Project also meets all the criteria for Canada's Clean Energy Initiative.

Its economic impact is staggering — tax and royalty benefits of \$10 billion and a positive GDP impact of \$100 billion. The Mackenzie Gas Project will help dig Canada out of debt. Yes, there is a role for Canada to provide a revenue guarantee, but there is every expectation that this guarantee will never be required. Once a transportation vehicle is built, new gas wells will be drilled in the Mackenzie Valley well before the initial fields begin to decline in 2029. Build it and they will come.

The best thing about this project is that it has support from the Aboriginal people of the Mackenzie Delta. It is one third owned by the Aboriginal Pipeline Group.

This historic and long-awaited project is good for the North and good for Canada. It will also lay the foundation for the building of the long-awaited Mackenzie Valley Highway by opening up gravel sources and by building airstrips and barge landing sites along the Mackenzie River.

The Northwest Territories is hungry for new jobs as diamond production declines. This project will create 7,500 jobs during construction. It represents an opportunity for economic independence and self-sufficiency, displacing present dependence on government programs.

Honourable senators, now is the time for decision. Under the NEB certificate, construction must commence by December 2015. The next step is completion of financial arrangements to enable work to begin in early 2012. The Mackenzie Gas Project not only has the support of Aboriginal groups in the Mackenzie Valley, but they are also proud partners. Let us take the next steps now.

## CAPTAIN JOSHUA SLOCUM

**Hon. Terry M. Mercer:** Honourable senators, we in Nova Scotia have a proud maritime heritage. One only has to dig out a dime from one's pocket to see the historic *Bluenose*. Early in August, a Nova Scotian was awarded an accolade few can share.

Captain Joshua Slocum, who was born in Mount Hanley, Annapolis County, Nova Scotia, will be inducted into the National Sailing Center and Hall of Fame in Annapolis, Maryland, in late October. He was the first man to sail single-handedly around the world.

Honourable senators, after moving from Nova Scotia to several locations around the globe, Captain Slocum set sail from Boston, Massachusetts, aboard his vessel, *Spray*, on April 24, 1895, and returned to Rhode Island three years later on June 27, 1898, successfully circumnavigating the globe, without the use of a GPS, I might add. In the age of dead reckoning and chronometers, honourable senators can imagine how much skill was involved in accomplishing this feat.

An accomplished seaman and writer, Captain Slocum received many honours, including having two ferries named after him which served Digby County, Nova Scotia, for over 31 years. Several ships have been named after him, and monuments and exhibits exist everywhere, from the Maritime Museum of the Atlantic in Halifax to a whaling museum in Massachusetts.



Honourable senators, Captain Slocum's induction into the hall of fame only adds to the pride that Maritimers feel when one of their own accomplishes so much. Join me in celebrating the legacy of Captain Joshua Slocum and all mariners who have followed in his footsteps.

#### MR. LEWIS MACKINNON

#### CONGRATULATIONS ON APPOINTMENT AS SCOTTISH BARD

**Hon. Michael L. MacDonald:** Honourable senators, I rise today to give recognition to a Nova Scotian and friend of mine who is being honoured this day on the other side of the Atlantic.

Lewis MacKinnon, a native of Cape Breton who was raised in Antigonish, is a musician, singer, writer, poet, recording artist and published author. What is so unique about his talent in Canada today is that his singing and writing are expressed in Scottish Gaelic, the language of his grandparents.

For many years, Lewis MacKinnon served as the CEO of the Nova Scotia Office of Gaelic Affairs, bringing a passion and dedication to his work that few could equal. I realize that the existence of Gaelic in Canada is quite obscure to most people. With the decline in the use of the language during the 20th century, most Canadians today have very little knowledge of its history across the country. Few realize that it was the third most common language in Canada from the middle of the 18th century until well into the 20th century and, for most of that time, it was also the most commonly spoken minority language in what today would be considered English-speaking Canada. It survives today primarily in Cape Breton. Now the work of people like Lewis MacKinnon is finally being recognized.

Today, October 19, 2011, Lewis is an honoured guest at the Royal National Mòd in Stornoway, Scotland. An Comunn Gàidhealach, the Gaelic Society of Scotland, has crowned Lewis MacKinnon the newest Scottish bard. This is the first time in history that a Canadian has been named to serve in this highly prestigious post in Scotland. It is something that we Canadians can be truly proud of.

On his visit, Lewis is accompanied by Ottawa's Ar n-Òran Scottish Gaelic Choir, which performed a specially arranged medley of original Canadian Gaelic tunes composed by the choir's director, Randy Waugh, of Ottawa.

I am sure all honourable senators join me in extending sincere congratulations to Lewis MacKinnon of Nova Scotia and to the Ar n-Òran Scottish Gaelic Choir of Ottawa for their efforts towards preserving the Gaelic heritage of Canada, which is being recognized this very day at the National Mòd in Scotland.

#### UKRAINIAN SHUMKA DANCERS

**Hon. Tommy Banks:** Honourable senators, I, too, rise on a happy and congratulatory note. There are few Canadian attractions, theatrical or musical, that travel widely in the world

playing in large soft-seat theatres to sold-out audiences. Even fewer have received a standing ovation at the end of every performance. For 50 years, Edmonton's and Canada's Ukrainian Shumka Dancers have been doing just that. "Shumka" means "whirlwind." Their performance presents a never-ending whirlwind of colour, music, power and grace.

The Shumka company returned home to Edmonton last September 15 following a triumphant six-week tour of China, during which they conducted 23 performances in 14 cities. It was one of the largest tours, if not the largest, ever undertaken in China by a Canadian dance company. The 41 dancers in the company wowed the audiences in those 14 Chinese cities with original dance and music celebrating their 50-year artistic evolution of dance in Canada, weaving together classical and contemporary movement, presenting dramatic storylines that are Shumka's distinctive style.

• (1350)

I know that all honourable senators will join me in congratulating tour producer Michael Sulyma; director Gordon Gordey; choreographers Dave Ganert, John Pichlyk, Victor Lytvynov and Tasha Orysiuk; composers and orchestrators — because they use a lot of original music — Gene Zwodesky, Yuri Shevchenko, Andrij Shoost; and every member of the Shumka company on this signal international success.

## ROUTINE PROCEEDINGS

### PROPERTY QUALIFICATION OF SENATORS

#### REPORT TABLED

**The Hon. the Speaker:** Honourable senators, pursuant to rule 135 of the *Rules of the Senate*, I have the honour to table the list of names of members of the Senate who have renewed their Declaration of Property Qualification.

#### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Chief Harry Deneron, Metis President; and Ernest McCleod, from Fort Liard, Northwest Territories.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

**Hon. Senators:** Hear, hear.



## FISHERIES AND OCEANS

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY MANAGEMENT OF GREY SEAL POPULATION OFF CANADA'S EAST COAST

**Hon. Fabian Manning:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Fisheries and Oceans be authorized to examine and report on the management of the grey seal population off Canada's East Coast; and

That the committee report from time to time to the Senate but no later than June 30, 2012, and that the committee retain all powers necessary to publicize its findings until December 31, 2012.

[Translation]

## QUESTION PERIOD

### ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT

#### OPPORTUNITIES FOR ABORIGINAL YOUTH

**Hon. Roméo Antonius Dallaire:** Honourable senators, my question is for the Leader of the Government in the Senate. We were recently informed of an issue concerning the use of elements of the Canadian Forces in Canada.

During the 1995 referendum, a sensitive time, I was the commander of the Armed Forces for the entire province of Quebec. At that time, Hydro-Québec wanted to flood part of the province, and the Cree community was vehemently opposed. I was not allowed to prepare a prevention plan because of the concern that the media would find out and that it would cause friction.

Just recently, the National Chief of the Assembly of First Nations said that —

[English]

— the Canadian Forces National Counter-Intelligence Unit has been monitoring the activities of the Assembly of First Nations in their activism and in their protests. Apparently, they are considered to be a threat to national safety and security.

Is the government saying that the Aboriginal people who are protesting are a security threat to the nation and need to be watched by the counter-intelligence forces, versus the gang who are occupying Toronto to protest events in the financial community? Could the leader give us any information on what is mandating the counter-intelligence unit to target the Aboriginal peoples and their protests?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I am not familiar with the details of the issue the honourable senator raised. I will take his question as notice.

**Senator Dallaire:** The fastest growing population in Canada is the Aboriginal community. Also, that community has the largest proportion of youths, those under the age of 15, and so on. It is also a population that has been particularly overrepresented in a number of our social institutions, such as prisons and courts and the like, because of problems that they have lived through.

Is it possible that we are now seeing a growing disenfranchised youth among the Aboriginal peoples and, security-wise, that is being seen as a threat to the stability of this country, given that the Aboriginal people inhabit about 658 different sites across the country and cover every possible access route that would be considered useful to the economy and security of the nation?

**Senator LeBreton:** Honourable senators, I acknowledge that the Aboriginal community has a younger, fast-growing population. The government has been and will continue to work closely with the Aboriginal leadership to ensure that young Aboriginals in this country have an opportunity to be educated and have the same opportunity as other Canadians to meaningful employment.

Since the honourable senator specifically mentioned education, I will just put on the record a few of the things the government has done with regard to education. As I said, our government has committed to improving the quality of education for First Nations across the country. That is why we made education a key priority in the Canada-Assembly of First Nations Joint Action Plan. As well, the National Panel on First Nation Elementary and Secondary Education, which was launched in June, is continuing its good work.

We are also working with First Nations to ensure that First Nation and Inuit students have access to education that encourages them to stay in school, graduate and get the skills they need to enter the labour market. We are committed to a new approach to providing support to First Nation and Inuit students for post-secondary education that is effective, accountable and coordinated with other federal student support programs.

The government, as honourable senators know, is committed to resource development and development in the North overall. The Prime Minister has stated on many occasions that he would very much like to see, when he visits these projects, that people of the North, including young people are directly benefiting from these developments, and not people moving in from other parts of country.

**Senator Dallaire:** Honourable senators, like child soldiers in Africa, children are now being used in drug gangs throughout South America. Recently, I visited a drop-in centre in Edmonton where I met with youths who were well under 18 years, although they were built like massive, powerful young men. They were screaming for instruments to get them out of the gang wars and the gang construct. These youth feel disenfranchised not just in their home communities, but also when they move to urban areas.



A specific objective that would also assist in security, both locally and nationally would be one that addresses the creation of these gangs among youth and neutralizes them by re-orienting the incredible energy of these young people. They are screaming to get out and would do so, given the opportunity.

• (1400)

**Senator LeBreton:** Honourable senators, there is no doubt that there is a horrific problem in other parts of the world. This government and previous governments, of course, acknowledge the difficulties.

Senator Dallaire specifically asked me originally about what the government was doing with regard to our own citizens. I think he will understand that I am not going to try today to answer or provide a solution — I have none — to situations in other parts of the world that are beyond the control of this government. However, I thank Senator Dallaire for the comment.

#### UNIVERSITY OF THE ARCTIC

**Hon. Lillian Eva Dyck:** Honourable senators, with regard to the answer to Senator Dallaire about education, the leader said this government is committed to increasing educational opportunities for young Aboriginal Canadians, yet at the same time, they have cut funding towards the University of the Arctic. Previously, the university received funding of about \$700,000 over a number of years, and now that is being chopped to \$150,000.

As honourable senators know, in the Arctic, there is a wealth of young people — probably 50 per cent are under the age of 25 — and there are positions open, but they do not have the training. Therefore, how can the leader say the government is committed to increasing opportunities for education for Aboriginal youth when they are cutting funding to the University of the Arctic?

**Hon. Marjory LeBreton (Leader of the Government):** The government made a commitment. There were two parts to this commitment. There was also a commitment from the other side to participate in this funding. That did not happen. However, the government is continuing to work to find proper ways to extend and participate in the education of young Aboriginals.

#### OPPORTUNITIES FOR ABORIGINAL YOUTH

**Hon. Terry M. Mercer:** Honourable senators, I have a supplementary question as well.

With respect to Senator Dallaire's original question regarding Aboriginal groups being observed — I think he used the term "observed" — by military groups, I would suggest they were being spied on. Senator Dallaire indicated that he met some wonderful Aboriginal youth in Edmonton; I think we can find wonderful Aboriginal youth in any community across this country.

This could be a win-win situation for everyone if we would switch our attitude away from one of spying on groups. Why not recruit these young people? Recruitment numbers are down in the military. Here are some young, fit, able-bodied Canadians who are dying to get out of the problems they find themselves in. Let us get them some work. Let us recruit them and train them for the military.

[ Senator Dallaire ]

Remember, historically, some of the bravest people who served our country in past wars have been our brothers and sisters from the Aboriginal community. It seems to me that we need to take the opportunity here to marry a problem and a solution and everyone would win.

**Hon. Marjory LeBreton (Leader of the Government):** I agree with that, honourable senators. I believe it is very important for the Canadian Armed Forces to participate in an active recruitment program. Although I do not have all the facts before me and I would certainly be happy to check this, I am quite certain that the Canadian Armed Forces aggressively recruits throughout all communities of Canada. I also believe quite a number of our Aboriginal youth have taken up the challenge and done just that, joined the Canadian Armed Forces. I would be happy to try to provide some numbers, if Senator Mercer would allow me to do so.

**Senator Mercer:** Please do.

#### NATIONAL DEFENCE

##### RECRUITMENT LEVELS

**Hon. Michael A. Meighen:** Honourable senators, I have a supplementary question regarding Armed Forces recruitment.

I have heard a number of anecdotal incidents raised that focus on the fact that people seem to feel that the intake rate in the Armed Forces, for whatever reason, has slowed down dramatically and that, at the very least, the delay for processing new recruits has grown.

Would the minister be good enough to make inquiries as to whether this is in fact true and what the policy of the Canadian Armed Forces is currently with respect to recruitment?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I believe that the recruitment levels in the Canadian Armed Forces over the past few years have been extremely high. I will certainly check and find out whether that has changed recently or whether there is some difficulty now in processing applications for recruits. I would be happy to do so.

**Senator Meighen:** I thank the leader for that. Perhaps I could point out that much of the recruitment has taken place through the reserves. I hope that the powers that be keep that in mind when addressing budgetary matters with respect to reserves. We would not have been able to do what we did in Afghanistan without the reserves.

#### PUBLIC SAFETY

##### ABORIGINAL WOMEN IN PRISON

**Hon. Céline Hervieux-Payette:** Honourable senators, my question is directed to the Leader of the Government in the Senate.

Aboriginal women are unjustly targeted by Bill C-10. According to the Native Women's Association of Canada, as of 2011, Aboriginal women represent less than 4 per cent of the Canadian population but over 34 per cent of the federal prison population.



The Office of the Correctional Investigator of Canada states that the higher rate of incarceration for Aboriginal peoples has been linked to systemic discrimination and attitudes based on racial and/or cultural prejudice, as well as economic and social deprivation, substance abuse, or a cycle of violence across generations.

Bill C-10 will guarantee that Aboriginal women remain in prison for longer and will greatly reduce their chances of reintegrating into society with skills that would enable them to break free from a life of crime.

When will the Conservative government amend Bill C-10 by taking into consideration these facts and addressing the numerous socio-economic problems that force these women into an endless cycle of criminality and despair?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, Bill C-10 very clearly acknowledges and recognizes that Canadians gave our government a strong mandate to keep our streets and communities safe.

Having said that, the government has already taken concrete steps to improve mental health services and rehabilitative services for Aboriginal women. In fact, the Correctional Service of Canada was recently recognized as a world leader in rehabilitation by the International Corrections and Prisons Association. Therefore, I do believe Bill C-10 addresses specific issues that we were mandated to implement.

With regard to Aboriginal women, the government is already making great strides in addressing this issue and, as I have mentioned, has actually received lauds from an international association as a result.

#### JUVENILE OFFENDERS

**Hon. Céline Hervieux-Payette:** The streets were not very safe for native women in B.C. The government could use other means besides Bill C-10 to correct the suffering of Aboriginal women.

[Translation]

I would like to talk about another fragile group that represents the future of Canada. At a press conference in Montreal on October 17, three young offenders serving a sentence at the Centre de jeunesse de Montreal explained how the passage of Bill C-10 would hinder their social reintegration and the possibility of having a second chance in life.

When we speak to young people who got off to a bad start, we find that quite often, it all began at an early age in the family. One of the centre's directors, Clément Laporte, the coordinator of the Centre d'expertise sur la délinquance des jeunes et les troubles de comportement, said that the government's decision is not supported by the scientific literature.

• (1410)

The experience in Texas showed that it is useless for a society such as ours to want to protect itself — in the criminal sense of the word — by using deterrence through longer sentences but without doing anything else in the meantime.

He went on to say, "You have talked to youth. They either act on impulse" — that is what they said — "or they are hard-core criminals," because they have not had any support for a long time "and they think that they will never be caught."

The government's actions are based on politics and popularity. But science has proven the opposite.

What does the government intend to do to give young Canadians — who are often intelligent and can overcome their issues — a second chance instead of pushing them into the arms of hardened criminals by sending them to prison for unjustified sentences?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** As I pointed out yesterday, we believe that victims of crime who pay the biggest price should be the people we think of first.

Having said that, I put on the record yesterday that significant resources and efforts are put into various programs for youth at risk, and I will be happy to repeat that. Those examples were put on the record yesterday, and I will repeat them if the honourable senator wishes, but I would ask that she refer to yesterday's Hansard.

In addition to ensuring that we have safe streets and communities, the government is equally committed to youth at risk, training and rehabilitation, as well as to programs that prevent young people from being caught up in the web of crime. The government has a balanced approach to this and certainly our government, like every government in this country that is concerned about what is happening to our youth, will make every effort possible to ensure that our youth do not fall into a lifestyle of crime. We will do everything possible through our youth-at-risk strategy and other programs to prevent that.

#### IMPACT OF PUBLIC SAFETY LEGISLATION

**Hon. Céline Hervieux-Payette:** That did not reply to my question. I am talking about scientific evidence, about all the people with doctorate degrees who have published many studies. I am also talking about our partners in the OECD. We are the third largest country of the OECD for putting people in jail, and our record is that we have more criminals than do countries in Europe.

Could the leader give me the scientific evidence and the numbers that show how much it will cost when people are in jail and how much will be put into the rehabilitation programs? We do not have these figures, and we do not believe in the philosophy of incarcerating people who are in fact criminals, but criminals who need to be rehabilitated so that our society is safer.

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I believe the head of Correctional Service Canada appeared before a committee in the other place and refuted exactly that mythology, namely, that there have been many more people in our prisons.



The honourable senator talks about scientific evidence. Yesterday, her colleague Senator Mitchell referred to a situation in Texas that has absolutely nothing to do with the Canadian system; there is no comparison whatsoever. He researched his questions in a CBC story, which was questionable to begin with.

The fact is that in this country we have a strong mandate, which is supported by the public who want to live in strong, safe communities. We believe that the primary focus of the government should be the victims of crime, who, if you look at the dollar figure, pay the biggest price for criminal acts.

The honourable senator says she does not believe the numbers, so there is no point in giving numbers, but, on several occasions in the other place, the Minister of Justice and the Minister of Public Safety have put on the record the costs of these programs.

**Hon. Tommy Banks:** Honourable senators, the problem with the balance to which the leader refers is that her government equates the reduction of judicial discretion and longer prison terms with safer streets, and the exact opposite is true.

Yesterday, when Senator Mercer admonished us about the “unwisdom,” — if that is a word — of following the path of our American cousins who have gone down that path, found it to be a big mistake and are now retreating, some senators opposite found Senator Mercer’s admonition to be amusing. However, it is not funny, honourable senators, because we will shortly be asked to approve measures that will take us even further down that road in our country. We will be asked to approve of touching that hot stove again, against which we have been warned. If we do, it will be both painful and expensive.

Why would we not learn, leader, from the benefit of the failed experience of our neighbours? Why would we blindly follow a path about which we have been warned?

Honourable senators may remember that during the Reagan administration, the Attorney General was a man named Edwin Meese III. He was at the head of the line of the “lock-’em-up-and-throw-away-the-key” legislation, and mandatory minimum sentencing was the foundation of it. That resulted in a nation with 2 per cent of the world’s population having 25 per cent of the world’s prisoners in their jails. In 1972, about 47,000 adults were incarcerated in the United States for drug offences. In 2005, that number was over 450,000, with no discernible or measurable effect upon the drug trade and significant increases in repeat offences.

Where is Mr. Meese now? He is one the leaders of a movement called Right on Crime, not “tough on crime,” that is seeking to reduce the harmful effects of mandatory minimum sentencing, not just in Texas but also in every state in the United States. Others who are involved in Right on Crime include former House Speaker Newt Gingrich; Asa Hutchinson, who was the head of the Drug Enforcement Administration; and William J. Bennett, the White House drug czar, with whom some of us met during our drug studies. Those are not bleeding-heart liberals. If you were to describe those people, you would describe them as arch conservatives, if anything, but they have touched that hot stove and are now working hard to get rid of the blister.

When will the government begin, as American governments at all levels have begun, to pay attention to the facts of these measures? When will the government devise a policy that is

something more than a cynical marketing device? When will it stop blindly following a dismal downward spiral into increased recidivism — which is the irrefutable result of where we are going — more expert criminals, and economic and social costs that we simply do not need to incur in this country?

**Senator LeBreton:** Honourable senators, it would be just wonderful if, for once, people focused on the victims of crimes and the prices they have paid. The honourable senator keeps talking about situations in the United States, but we are proposing a unique Canadian situation that has absolutely nothing to do with the United States. As I said yesterday, the comparison with Texas is ridiculous. Their incarceration rate is proportionately five times higher than ours in this country. Senator Banks and others keep saying that putting people in prison does not work. Well, I have a personal experience and, as I have shared with caucus colleagues, I would have a daughter and grandson still alive today if a person had been kept in prison for his criminal acts.

**Senator Banks:** Leader, no one argues with the fact that serious criminals need to be put in jail for a very long time. We are not talking about serious criminals, and anyone who thinks that the experience of all of the United States, not just Texas, has nothing to do with where this government is taking us does not know what he or she is talking about.

**Senator LeBreton:** If the honourable senator is talking about young people who get caught up in the drug trade, we have acknowledged that and that is why in Bill C-10 we are talking about people who push drugs. We are talking about organized crime, and we are talking about helping young people through our youth-at-risk strategy to keep them from falling into the clutches of these hardened criminals and drug pushers. That is what we are trying to do, and people must understand that unless we deal with the organized crime, the drug pushers and the grow ops, we will have a whole group of young people, who, unfortunately, will get caught up in that. Why would the government not try to prevent those people from poisoning our young people?

• (1420)

## ORDERS OF THE DAY

### FEDERAL LAW—CIVIL LAW HARMONIZATION BILL, NO. 3

#### SECOND READING—DEBATE ADJOURNED

#### On the Order:

Resuming debate on the motion of the Honourable Senator Angus, seconded by the Honourable Senator Lang, for the second reading of Bill S-3, A third Act to harmonize federal law with the civil law of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law.



**Hon. John D. Wallace:** Honourable senators, I would like to speak for a moment about the current status of Bill S-3. As honourable senators will recall, it deals with the harmonization of federal statutes with the French civil code, in particular, 12 existing federal statutes. Through the harmonization process the objective is to ensure there is consistency in the language.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** I rise on a point of order.

I do not want to cut my honourable colleague off, but I would like to assure ourselves that the second speaker will be allowed the 45 minutes for our side as critic for this bill.

**Hon. Kelvin Kenneth Ogilvie (The Hon. the Acting Speaker):** Honourable Senator Wallace, are you agreed to speak for only 15 minutes or less?

**Senator Wallace:** Yes. I think “or less” will do it, thank you.

**The Hon. the Acting Speaker:** I hope, Senator Tardif, that responds to your question. Thank you for your patience.

**Senator Wallace:** Thank you, honourable senators.

As I was saying, the issue involving Bill S-3 is the harmonization of federal statute with the Civil Code of Québec. Essentially, the objective is to ensure that the terminology of the federal statutes, when they rely on the French civil code, is consistent. From the work that has been done to date, it is obvious there are some inconsistencies.

Bill S-3, with the exception of very minor changes, is identical to Bill S-12 that we considered in committee during the last session back in December. The reason I am speaking about this today is that we have considered this bill and talked about it in our steering committee meeting. I am the Chair of the Standing Senate Committee on Legal and Constitutional Affairs. We are very anxious to proceed with this bill. I realize our job is not to do it quickly and not thoroughly; I would never suggest that. We want to and will do the job properly. However, this bill deals with technical, procedural matters, and our sense is that in committee we will be able to deal with it with one witness and in one day.

I am bringing this to the attention of the house today because we have a number of other matters that are able to come to our committee now and will be coming in the near future. For matters that would not seem to be controversial, I would ask this chamber to do everything possible to expedite proceeding with that bill in this chamber so it can be referred to our committee and we can get on with it without further delay.

I would ask of my colleagues that we do everything possible to enable that to happen in a way that is thorough and proper, but expediting the process so we are able to get on with other work at hand.

**Senator Tardif:** I move the adjournment of the debate.

**The Hon. the Acting Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(On motion of Senator Tardif, debate adjourned.)

## WORLD AUTISM AWARENESS DAY BILL

### SECOND READING—DEBATE ADJOURNED

**Hon. Jim Munson** moved second reading of Bill S-206, An Act respecting World Autism Awareness Day.

He said: Honourable senators, I stand today to move second reading of Bill S-206, An Act respecting World Autism Awareness Day. Those of you who were sitting in this chamber when I introduced this bill over three years ago will appreciate that I am more intent than ever on seeing it finally become law.

For the honourable senators who are new here, I should explain that timing and, of course, politics — namely, two prorogations and one general election — have complicated what should have been a straightforward, one-time process.

I do not foresee any events like these during this session, and therefore I am optimistic that this bill will receive full legal affirmation in time for Canadians to recognize World Autism Awareness Day next spring.

In 2008, when I first stood as sponsor of this bill, Canada was lacking adequate survey data on autism. Canadian epidemiological studies have evolved somewhat since then, but are only in the early stages. In 2011, we remain largely dependent on statistics and data from outside the country to estimate the impact of autism on Canadian families.

Today, statistics show that as many as 1 in every 110 children has some form of autism. It is the most common neurological disorder affecting children, and one of the most common developmental disabilities. The rate of autism increases 10 per cent to 17 per cent annually. The numbers alone are shocking.

We must find a way, I believe, to have the federal, provincial and territorial governments hammer out a national autism strategy. Such a strategy is the best — really the only — way to assemble all the different activities going on throughout Canada to deal with autism.

In the absence of a comprehensive national approach to the autism crisis, governments — that includes the federal government — advocacy groups and individuals are carrying the weight through innovative and resourceful activities.

Locally there is an organization called QuickStart, established by a dear friend of mine, Suzanne Jacobson, in 2008. She has two grandsons. One grandson was first diagnosed as having autism at about two and a half. However, it was not until he was four and a half that he finally began intensive behaviour therapy.

So that other families would not have to endure the same agonizing wait for treatment, Suzanne helped create a clinic providing preliminary screening to determine children's individual needs.



To address the complex issues and needs related to autism, we see that stakeholders support one another and function as a strong, pragmatic and dedicated community. At a recent fundraising event organized by QuickStart, we learned that locally, here in Ottawa, CHEO and the Ottawa Children's Treatment Centre have been awarded \$2 million from Ontario's new fund dedicated to research and support services in autism.

These two local institutions are creating a seamless autism team to deliver support services to families with autistic children. It is good, but there are still lineups, lineups, lineups, not only here in Ottawa but across the country.

• (1430)

We should take heart in events like these. They show us what can be accomplished when we are compassionate and act on our responsibility to one another.

Here in Parliament, over the last few years, I have been grateful to those in the Senate and in the House of Commons who have lent their voices to this cause. In his days as a senator, and as a mentor, Dr. Wilbert Keon worked diligently to help me raise the profile of autism and turn Canadians' attention to the crisis at hand. Way back when, now that I am well into my eighth year, I launched an inquiry into autism, and my inquiry ended up at the Social Affairs Committee. It was Senator Eggleton and, of course, Dr. Keon and the members of that committee on both sides, who embraced what I was trying to do. Then we released this groundbreaking report called *Pay Now or Pay Later: Autism Families in Crisis*.

Those words came from an autistic man from Fredericton, New Brunswick. As a former newperson, I am always looking for a lead. In the last hour of his testimony, this gentleman from Fredericton, with a small computer company, said: "Well, senators, you are going to have to pay now or pay later." That became the headline of our story.

Dr. Keon and Senator Eggleton were instrumental in showing the rest of us and pushing this report forward so that people took notice. To this day, autism organizations regard that report and its recommendations as a source of guidance and encouragement.

There are other senators among us who have, on previous occasions, stood up and supported efforts to deal with the autism crisis: Senator Oliver, a forceful speaker on this issue, Senator Mercer, and former Senator Trenholme Counsell, to name a few.

I know how difficult it is to get a private member's bill through, but I am determined. In the house last December it was Conservative M.P. Harold Albrecht who retrieved this bill from a post-prorogation stack of private members' bills. Introducing it to his colleagues, he cited federal government initiatives to enhance Canada's autism evidence base and raised public awareness. Mr. Albrecht also emphasized the importance of bringing together researchers, clinicians, policy-makers, parents and other key stakeholders to identify effective treatment and diagnostic techniques.

I am grateful to Mr. Albrecht for recognizing and championing the purpose of this bill, and to other members of Parliament who rose to endorse it. One of them is my friend, Conservative M.P.

Mike Lake. We have talked a lot and we have shared a lot of experiences. He has talked candidly about his home life with his teenage son, Jaden. Jaden is autistic. You have seen Jaden on the Hill with his dad. No one but a parent can help us really understand the day-in, day-out challenges of raising a child with this complex disorder. I was generally moved by Mike and his homage to his wife and daughter, his gratitude for their constant patience and love.

It is those personal connections we have with autism that really move us. Though most honourable senators here today might not have known what autism was 20 years ago, I would say that every one of us now knows at least one child with a form of autism. Whether that child is a family member or a son or a daughter of a friend, we feel the proximity of the disorder.

If you have talked to anyone with a child with autism, you most certainly must have been touched by their stories. At speaking engagements that take me across the country, I meet families coping with autism on an hourly, daily, weekly, yearly basis. I have heard stories of parents desperately waiting to get their children into therapy programs. I have met parents, and I am sure many in this house know of parents, who have just uprooted their lives. Friends of mine in Atlantic Canada who are not getting the services in one particular province have to go west, where there are better services in Alberta and British Columbia. It is not about the oil; it is about the family. It is about the child.

All the worries and trials are distinct, except this one: What will happen to my child when I can no longer carry the load, when I am no longer here? It is a thought that haunts each and every parent of a child with autism, and their concern is legitimate. The care and housing options for autistic adults in this country are at best meagre.

This bill has only one operative clause. It will not change the reality of families affected by autism. They will still have to fight to get treatments and make sacrifices to pay for these treatments. However, I firmly believe that when the argument is made that this is a provincial jurisdiction, that this belongs to the provinces — no, this belongs to Canada. I really believe that. The time has come for a Marshall Plan dealing with autism where federal health officials, the federal health minister and those involved in social services in the provinces actually sit down and put together a national autism strategy so that more money, millions more, can be spent on research. To me, there are no borders when it comes to autism. This is a national issue.

What this modest bill can do, though, is show the families that they matter, autism matters, that the people of Canada respect them for doing the best they can in the name of their children, brothers, sisters, grandchildren, nieces and nephews. World Autism Awareness Day will also spark awareness among the citizens of this country about autism, its symptoms, the people affected by it and the need to address the crisis it has become.

I want to thank honourable senators for your attention and for sharing in the effort we can all make to pass this bill in time to celebrate World Autism Awareness Day on April 2, 2012.

(On motion of Senator Seidman, debate adjourned.)



## VISITORS IN THE GALLERY

**The Hon. the Acting Speaker:** Honourable senators, I would like to draw your attention to the presence in the gallery of participants in the Ninth Canadian Parliamentary Seminar organized by the Canadian Branch of the Commonwealth Parliamentary Association.

On behalf of all senators, I welcome you to the Senate of Canada.

**Hon. Senators:** Hear, hear!

## MEDICAL DEVICES REGISTRY BILL

## SECOND READING—DEBATE ADJOURNED

**Hon. Mac Harb:** Honourable senators, I move second reading of Bill S-202, An Act to establish and maintain a national registry of medical devices.

**The Hon. the Acting Speaker:** It has been moved by Senator Harb, seconded by Senator Cordy, that this bill be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

**The Hon. the Acting Speaker:** Carried.

The Honourable Senator Harb.

**Senator Harb:** I move that the bill be read the third time.

**The Hon. the Acting Speaker:** Honourable senators, subject to your will, it is clear that I proceeded too quickly on this matter. Is it your will —

• (1440)

**Some Hon. Senators:** No, no.

**The Hon. the Acting Speaker:** Honourable senators, I will return the chair to the official Speaker of the chamber to have this matter dealt with on the basis that he is someone with experience.

**Hon. Joan Fraser:** On a point of order, honourable senators, our rules say that any act undertaken in the chair by the senator replacing His Honour is as valid as if he himself had undertaken it. The honourable senator who replaced His Honour called for the vote on second reading and the bill was adopted on second reading. It seems to me, therefore, the appropriate case now is for His Honour, with all due deference, to say what happens next and then it will presumably be referred to committee.

**Hon. Gerald J. Comeau:** I think Senator Harb has actually proposed that this bill be read the third time. I suppose that is where we are at.

**Senator Harb:** Honourable senators, in all fairness, I would propose that since this bill has gone twice already through second reading in the Senate and was referred to committee that we do the same now, refer it to committee so it can have a proper hearing.

**The Hon. the Speaker:** Which committee?

**Senator Harb:** If honourable senators want to debate it, I am prepared to do just that.

**Senator Comeau:** What was not good a couple of minutes ago was that the Speaker wished to return to second reading and the other side said no. Therefore, the mover of the motion referred the bill to third reading. What is no for one side should be no for the other side. We are at third reading, in fact.

**The Hon. the Speaker:** Honourable senators, approaching this question with a fresh mind, it is *tabula rasa* in more ways than one. One thing I am certain of is that the question "When shall the bill be read the third time?" has not been asked of the house. It is usually at that time when an honourable senator will rise and make the motion that it be referred to a committee.

We are clear that we are not at third reading and we are clear that the question has not been put. The doubt is whether or not the bill has been adopted at second reading. If there is any doubt about a bill having been adopted at second reading, or any motion, a standing vote could be called for greater clarity.

It seems to me that the question was asked: "Shall the bill be read the second time?" Certain senators said "yea," certain senators said "nay." The chair ruled that the "yeas" or "nays" had it. We should be back to that point. It is not to speak to Senator Fraser's good point that once something is done it is done, but on matters of votes we are given the opportunity for clarity by senators rising for a standing vote to ascertain the true will of the house. At the end of the day, it is the will of the house that counts.

I will put the following question: All those in favour of the motion moved by the Honourable Senator Harb, seconded by the Honourable Senator Cordy, will please say "yea."

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed to the motion will please say "nay."

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the "nays" have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** We will have a standing vote. Is there an agreement on the time?

If there is no agreement, there will be an hour bell. Is there agreement for a shorter bell?



**Hon. Elizabeth (Beth) Marshall:** Thirty minutes?

**Senator Harb:** On a point of order.

**The Hon. the Speaker:** There is no point of order. The two whips have come to a decision and agreed on a 30-minute bell.

Call in the senators for a vote at 3:15 p.m.

• (1510)

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Your Honour, I do not believe it is necessary for a vote to be called. I believe you would find that within this chamber there would be unanimous consent that we revert back to Item No. 4 and that you go back to the Order Paper and call the question as originally called.

**The Hon. the Speaker:** Is there unanimous consent, honourable senators?

[Translation]

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, it seems there was some confusion about the question. We think that it is advisable to consent and revert back to the item mentioned.

[English]

**Senator Harb:** I move that Bill S-202, an act to maintain and establish a national registry of medical devices, be read the second time.

**The Hon. the Speaker:** It is moved by the Honourable Senator Harb, seconded by the Honourable Senator Cordy, that this bill be read the second time.

On debate, Senator Harb.

**Senator Harb:** Honourable senators, I rise today to ask for your support for Bill S-202, An Act to establish and maintain a national registry for medical devices. This bill has twice received approval at second reading and has twice been referred to the Standing Senate Committee on Social Affairs, Science and Technology for further study only to be interrupted when parliamentary sessions ended.

I thank you, honourable senators, for your past support, and I trust we can once again agree on the national importance of this legislation to the health and well-being of Canadians. It is indeed a matter of national importance. This is a matter that impacts, directly or indirectly, the health and safety of all Canadians.

Simply put, there is no foolproof mechanism in place at this time for users of medical devices to be contacted if something goes wrong with their device. Current regulations fall short, and people are suffering as a result. A voluntary registry that holds contact information for medical device users would close this gap and protect the health and safety of a growing number of Canadians.

• (1520)

Allow me to explain. Medical technology is transforming health care and improving the lives of Canadians. However, as more sophisticated medical devices come on the market, the government must ensure that Canadians are provided with safe and effective products and are informed should these devices fail. Without a national registry, we simply cannot fulfill this responsibility.

Honourable senators, Health Canada is responsible for regulating the safety and effectiveness of all medical devices marketed in Canada. There are approximately 1.4 million different medical devices currently on the Canadian market, with many more awaiting approval. Among these devices are the Class III and Class IV high risk devices such as artificial hips and pacemakers, devices that will be covered by this registry.

Canada's orthopaedic surgeons are performing 100 per cent more hip and knee replacements than they were ten years ago. In the United States, the number of knee replacements is expected to increase by 673 per cent and hip replacements by 174 per cent over the next 20 years.

It is not just the use of implants that is on the rise. Every year, thousands more Canadians use prescribed medical devices such as blood-glucose monitors and portable oxygen tanks. An aging population, increased obesity and improved medical technologies are expected to contribute to even more widespread use of medical devices.

As the number of devices rises, we have also seen a corresponding rise in the number of warnings and recalls relating to medical devices. During the period 2001 to 2010, 6,648 medical devices were recalled by Health Canada. There were 848 recalls last year and 763 the year before that. Honourable Senator Eaton pointed out when we last discussed this bill that not all of those recalls relate to the higher risk devices. However, it is safe to assume that even if one recall concerned a piece of medical equipment you had implanted in your body, you would be very interested in knowing about it.

While Health Canada keeps track of the devices it licences, there is no central registry for the patients who are using those devices and, thus, no way to ensure that a Canadian affected by a faulty device is notified when a problem arises.

[Translation]

This bill, if approved, will establish and maintain a national registry of medical devices. This registry will also contain the names and addresses of people who use certain implantable or prescribed home-use medical devices. The information will be provided voluntarily by the users of the devices.

This bill also requires manufacturers and distributors of medical devices to notify the registrar if a medical device poses a risk to the health or safety of a user. The registrar is then required to notify registered users.

[English]

Honourable senators, the current system is not working. The Office of the Auditor General has repeatedly called on the government to take action. In reports issued in 2004 and 2006, and, most recently, in June 2011, the Auditor General concluded



that, despite its best efforts, Health Canada is still not able to fulfill its responsibilities for medical devices as stipulated under the Food and Drug Act and Regulations.

The Auditor General noted unacceptable delays in getting urgently needed new products onto the market, and a failure to adequately manage the risks related to medical devices once they are approved for use. Health Canada increased its financial allocation toward the direct costs of the Medical Device Program to \$10.1 million in the 2009-2010 fiscal year, up from \$2.7 million in 2002-2003. Despite this increase in resources, the Auditor General found that the program continued to face challenges in meeting its responsibilities.

We cannot pretend to be surprised by these findings. Health Canada's responsibilities in this sector are enormous. It needs resources, such as a national registry, to help it meet its goals.

Given the rapid growth of the medical device industry and the complexity of the technology, Health Canada is faced with increasingly complicated submissions for approval and inspection programs. Incident reporting and risk management are largely left to the other stakeholders in medical devices, including the medical device industry itself and health care facilities and practitioners. That is not acceptable. Both have proven to be problematic links in the communication chain responsible for reporting adverse incidents in a timely manner.

[Translation]

Current regulations call on manufacturers to notify health care practitioners and users if something goes wrong with a medical device, but these regulations can fail due to such common occurrences as simple human error, a medical practitioner who moves out of the country, a lost patient database, or a device manufacturer going out of business.

Health Canada does not have patient information at its disposal, counting on individuals to monitor its website or the media in hopes of coming across a product recall or related information. Case studies abound of individuals who were not notified, despite the requirement for manufacturers to contact affected individuals.

[English]

Let me give honourable senators an example of such a case that occurred despite the revised Medical Device Regulations that, as Senator Eaton pointed out previously, were put in place in 1998 to ensure that medical devices sold in this country are safe, effective and high quality.

In January, 2011, a Canadian woman, Joanne Scharf of Nova Scotia, was the latest to file a lawsuit against DePuy Orthopaedics, a Johnson and Johnson company. She says the company waited at least two years before reporting that a high number of their ASR hip implants were failing and causing harm to patients.

The hip device is now known to break down, allowing metal shavings to make their way into a patient's bloodstream. The resulting cobalt poisoning can increase the risk of a number of health problems, including dementia and heart failure. The

company recalled the product in August, 2010, after having received reports, for several years, regarding early failures of the implant. Ms. Scharf is now faced with the prospect of early revision surgery to replace the implant, as well as a future of possibly dire blood-related complications.

Another example is Canadian Kristie Pells, who had a device called the Kugel Mesh implanted in 2003 to repair an abdominal hernia. Five years later, she almost died as a result of infection and damage caused by the breakdown of the patch. A family friend did some research and noticed that these Kugel Mesh patches had in fact been recalled. That was the first Ms. Pells heard about the recall, although some of the patches had been pulled off the Canadian market two years before Ms. Pells ended up back in hospital. Her lawyer contacted her surgeon, who confirmed she did indeed have one of the recalled patches.

There is now a class-action lawsuit under way on behalf of Ms. Pells and other Canadians who are dealing with serious complications.

Like Joanne Scharf, Kristie Pells did not receive timely warnings from the manufacturer, her surgeon, or Health Canada. For all we know, thousands more Canadians are suffering health problems but simply do not realize the symptoms are linked to a recalled or banned product.

Health Canada is trying its best. As Senator Eaton mentioned, Health Canada has set up a hotline for patients to report medical device problems and has initiated a pilot project to improve adverse incident reporting by health practitioners. There are some good ideas here that may be useful in improving device related reporting, but these initiatives are simply not designed to get information about medical device failure to the individual affected.

Medical device failures are disproportionately costly to the individual and to society. In 2010, public and private health care spending in Canada totalled \$191.6 billion, up almost \$10 billion from 2009. We simply cannot afford not to address this issue.

When an adverse incident occurs, Health Canada issues warnings, public health notices, and other industry notices, as a service to health professionals and consumers.

• (1530)

While there are some Canadians who might be capable of navigating the online databases necessary to stay on top of the latest news about their particular device — with appropriate product class, serial number, year of manufacture and the exact date a problem may have been reported — there are many more, for reasons of infirmity, lack of Internet access, language barriers, et cetera, who would be unable to navigate such a complex database. In short, not every Canadian uses the Internet. We simply cannot take the chance that these Canadians fall between the cracks.

If your car is affected by a recall, you are notified. Surely we can provide similar protection to Canadians who depend upon medical devices.



Senator Eaton raised the issue about privacy in her statement. I would like to assure honourable senators that patient privacy will be strictly respected, and I trust that through committee consultation and working with experts from the Department of Health, this will not prove to be an onerous task.

Health Canada has great experience protecting the privacy of Canadians and I do not expect this to change.

MEDEC is the national association representing Canada's medical device and diagnostic industry. After this bill passed second reading the last time, MEDEC wrote a letter to the Standing Senate Committee on Social Affairs, Science and Technology that said the "robust Health Canada post-market vigilance system" makes a user registry unnecessary at this time. Obviously, MEDEC's idea of robust is different than mine, and the Auditor General's as well.

Yet, in response to the June 2011 Auditor General's report, MEDEC acknowledged that

... (t)he OAG report clearly shows that Health Canada is not fully meeting its obligations in relation to medical devices. There is more work to be done ...

I agree. MEDEC did pledge to look for ways to enhance its support for the post-market activities of Health Canada, and this is welcome news. Its continued cooperation will be essential once the medical registry is up and running.

I note as well that my honourable colleague Senator Eaton suggested that the establishment of a national registry would weaken the existing duty of care on the part of manufacturers. How so? The Food and Drugs Act and medical devices regulations place the responsibility for safety, effectiveness and quality of medical devices sold in Canada on the manufacturer. This bill does not change that. It simply ensures that when the manufacturer advises Health Canada about a problem, the department can go beyond posting a flyer on a virtual billboard.

The manufacturer remains very much a responsible partner in this cooperative post-market surveillance process. The consumer must be notified.

Partnership is a cornerstone in a new national medical device registry launched by the Biomedical Research and Education Foundation, BREF, in the United States. Users voluntarily register their contact and device information to this registry. BREF says its registry will improve patient outcomes well as the flow of information between patients, physicians and members of the medical community.

The American registry is a collaboration between academia, medical associations, industry and government. It is apparent to me that Canada could benefit from a similar multi-partner approach to the establishment of a medical device registry.

[Translation]

There are a number of medical device registries already in existence. For example, Health Canada funds the Canadian Joint Replacement Registry. There are also registries in other countries, such as England, Sweden, Finland, Norway, Denmark, Hungary, Australia and Saudi Arabia.

Generally speaking, these registries are established to provide information in real time about problems with devices and to give immediate feedback to the medical community and device manufacturers about the performance of these devices, as well as to provide information for clinical research purposes.

[English]

Canada's single device registries are valuable partners that could work with this national registry to ensure that information flows to the user should a problem be identified.

I was gratified by the support I received from stakeholders when I first introduced this bill. The College of Physicians and Surgeons of Alberta wrote:

The stated intention of this bill ... is very worthy and is generally supported.

The chief surgeon of the oncology division of the Tom Baker Cancer Centre in Calgary wrote:

I would certainly agree with your approach of having a federal registration of these products as one cannot rely on solvency of the industry or rely, without a lot of bureaucracy, that the industry in fact is compliant with regulations about notification of individual devices.

That is a fact.

Finally, this letter from the Riverside Health Care facilities in Fort Frances, Ontario:

I agree that there is a problem with our current system. We rely on the manufacturers to report a recall to us, but in the recent past this did not happen ... Good luck with this endeavour ...

Canada's medical technology companies are second to none, and the devices they create have dramatically improved the lives of Canadians and patients around the world. Canada's health professionals provide the vital link between Canadians and the medical devices that can maintain and enhance their lives.

Health Canada is working very hard against difficult odds to tackle the tremendous responsibilities it has been given to protect the health and well-being of Canadians. However, when the unthinkable happens and a device fails, I believe that the central registry for medical device users will prove to be an essential element in fulfilling the mandate to protect the health and safety of Canadians.

(On motion of Senator Carignan, debate adjourned.)



**STUDY ON ISSUES RELATING TO FEDERAL  
GOVERNMENT'S CURRENT AND EVOLVING POLICY  
FRAMEWORK FOR MANAGING FISHERIES  
AND OCEANS**

**SECOND REPORT OF FISHERIES AND OCEANS  
COMMITTEE—DEBATE ADJOURNED**

The Senate proceeded to consideration of the second report (interim) of the Standing Senate Committee on Fisheries and Oceans entitled: *Seeing the Light: Report on Staffed Lighthouses in Newfoundland and Labrador and British Columbia*, tabled in the Senate on October 6, 2011.

**Hon. Fabian Manning:** Honourable senators, I am pleased to stand today and make a few comments in relation to a report that was carried out by the Standing Senate Committee on Fisheries and Oceans. It was presented in the house a few weeks ago.

The name of the report is *Seeing the Light: Report on Staffed Lighthouses in Newfoundland and Labrador and British Columbia*.

Honourable senators, back in the mid-1990s there was a destaffing of lighthouses throughout Canada. That process, at the time, met with widespread and overwhelming opposition. There did not seem to be a lot of planning and timing put into the decision to destaff lighthouses. When it came up for debate and discussion again in the last year, the former Minister of Fisheries and Oceans, the Honourable Gail Shea, contacted our committee. She asked if we would take the time to do a study into the continuation of destaffing of lighthouses and offer suggestions on how we could address the concerns that had been raised from the destaffing efforts of the mid-1990s.

I would like to make a comment in relation to recently retired Senator Bill Rompkey, who was the chair of the Standing Senate Committee on Fisheries and Oceans at the time and who led the committee through this report process. With his wealth of knowledge, he gave us a great opportunity to talk to Canadians from one end of Canada to the other and to present what we believe was a vital report. Through that report and the recommendations we made, the government decided not to destaff lighthouses at this time, to have another look at it and to hold off on what their plans were.

With the request from the minister and the process that took place with the committee, we agreed that we brought forward some concerns that were addressed by the minister and the government.

As I said earlier, we had the opportunity to consult with Canadians at both ends of the country: British Columbia and Newfoundland and Labrador. In our discussions we heard the message loud and clear that lightkeepers are still needed in parts of our country. There was debate on the use of navigational aids to replace lighthouse keepers. We are all subject to changes in technology on a day-to-day basis, but we heard the overriding message that lighthouse keepers are still needed. Certainly, they are a reliable supplement to today's technology, the ultimate backup, as someone told us, and a true safety net for the many people who travel the oceans around this country.

• (1540)

One witness told us that he felt lighthouse keepers are the eyes and ears of mariners. There was a strong message that lighthouse keepers continue to provide certainty and reliability. They have great knowledge and judgment of local areas, whether on the West Coast or East Coast of Canada. They play an important role at times in saving lives, which we heard a lot about on the coast of British Columbia. Lighthouse keepers continue to step in to relay weak VHF radio signals, help track down overdue boats, assist vessels in distress, and provide first aid and sanctuary when needed in times of disaster at sea. Lighthouse keepers provide an essential service and indeed save lives.

The response to the push from Coast Guard officials and people in the department that all lighthouses could be replaced by navigational aids was loud and clear: There is more to the lighthouse and the lightkeeper than just the light; and having that human presence and touch is very important in many parts of the country.

In Newfoundland and Labrador, there are 23 staffed lighthouses; 18 are accessible by road or highway and 5 are in remote locations. British Columbia has 27 staffed lighthouses; only 3 are accessible by road, and 24 are in remote locations, some on very small islands. They provide a very important service to the people who make a living from the sea or who travel the waters around the country.

We heard from many presenters with an overwhelming interest in making their points. We started the process by bringing in the Minister of Fisheries and Oceans and her staff and members of the Coast Guard. We heard their concerns in relation to the cost of maintaining lightkeepers. The minister wanted to ensure that the decision was made and that the safety of mariners was front and centre.

We heard from fishermen at both ends of the country. People who make a living from the sea spend a tremendous amount of time on the water, not necessarily in the safest conditions at times. Over and over we heard from Newfoundland and Labrador, from the rest of Atlantic Canada and from British Columbia about the importance and necessity in their minds of maintaining lightkeepers that are more than just a beacon in the night. We heard from representatives of boater groups and charter companies, especially those involved in the tourism industry throughout our country, and the importance that they place on lightkeepers from a safety perspective. As well, lighthouses are synonymous with our rugged coast and they see them as a great asset to our tourism industry in some areas. It is important to them that we maintain the lightkeepers.

We heard from municipal and provincial politicians of all political stripes on both coasts who were adamant about the importance of lightkeepers. Many expressed the sentiment that the destaffing process of the mid-1990s left a major void throughout our country, and they feared the same would happen again. We heard from several marine safety groups, whose message was "safety first." These might be tough economic times, but how do we put a price tag on the lives of people on the ocean? Time and time again the marine safety groups put forward their concerns. They believe that the important service provided by lightkeepers should be maintained. We heard from union



representatives across the country, who were concerned about job loss among their membership. They certainly made their voices known on that. We also heard from lighthouse preservation groups about the historic significance of lighthouses, such as Cape Spear and Cape Bonavista in Newfoundland and Labrador. John Cabot landed in 1497 at the site of today's Cape Bonavista. The lighthouses and their surrounding structures are major tourist attractions. Much of that attraction includes a person who can explain the history and the cultural significance of the lighthouse.

During the presentations made to the committee, many people agreed that not every lighthouse in Canada can be maintained but that certain ones vitally important to Canada's tourism, heritage and culture should be maintained. There is a process through Parks Canada and Environment Canada to work toward ensuring that some of these lighthouses and surrounding structures are maintained for future generations.

We heard from several people involved with harbour authorities. They pushed forward on safety issues for boaters and fishermen on the waters of both coasts. They felt the need to bring forward their concerns to ensure that the safety of the people they represent who use their harbours is and will continue to be of major importance.

We also heard from lightkeepers. Honourable senators, it is easy to say that every lightkeeper who stood up talked about the necessity to stay put because they wanted to keep their jobs, but many that we heard from in British Columbia, especially in remote locations, spoke to the issue of safety. They spoke genuinely about the involvement of some lightkeepers with fishermen in distress and the stories of what they have done over the years. There is no doubt in my mind that their concerns about safety issues are genuine. It is important to have someone in place to respond to emergency situations, especially in remote locations where there is always a concern about the timing of search and rescue. Sometimes a helping hand not only saves a life but also reduces the resources needed for search and rescue. Sometimes having someone there on the scene, being able to provide that service, alleviates the necessity of having a major push forward by search and rescue.

• (1550)

As you can see, honourable senators, we had a very widespread consultation process. We heard from dozens of people, individuals, groups and organizations and talked about the importance of the lightkeepers. I want to make a point here, if I could. We hear sometimes in our conversations about committees travelling to different parts of the country. There is always an expense involved, and I realize that. There is always a concern by some member about whether travel is necessary, whether it is important to hold our hearings here in Ottawa or just as important to be out around the country. Certainly after listening to the representatives and people who came forward, I am a true believer that it is important many times for us to get away from the hallowed halls of this building and the bubble that we work in here. We think that everything is grand and wonderful here in Ottawa, but in the outlying parts of this country, the far ends of the country, sometimes the presence of senators, a Senate committee or a House of Commons committee in an area not only gives them opportunity to highlight their concerns, but also an opportunity at least for people in those outlying areas to feel that

someone is listening and that there is an opportunity to have their voice heard. I think it is important that we continue to —

**Some Hon. Senators:** Hear, hear.

**Senator Manning:** Getting a clap from Senator Banks and company over there does not really excite me, but I will take it anyway. As I said, I think it is important that we have the opportunity to go out and travel around the country.

I would like to touch on the recommendations that were made in the report, honourable senators, and certainly the number one recommendation —

**The Hon. the Speaker:** Order, please. With the consent of the house, five more minutes.

**Senator Manning:** Thank you, honourable senators. That is the first time I have sat down for talking too much.

I want to touch on a couple of recommendations. Recommendation 1 was the main one that the government listened to and on which we deemed the study to be a success.

The Committee recommends that the Canadian Coast Guard halt its current destaffing plan, and that destaffing, continued staffing, or restaffing be determined on a lightstation-by-lightstation basis through appropriate guidelines and thorough consultations. Until this is completed, current lightkeeper staff levels should be maintained in the Pacific Region and in the Newfoundland and Labrador Region.

#### Recommendation 2:

The Committee recommends that a long-term policy for lightstations be developed that will obviate cyclical reviews and that ensures continuation of a suitable level of staffing.

It was very important that our first recommendation was wholly taken by the minister at the time, who put a halt on the destaffing of the lighthouses throughout the country; and it is important that an appropriate process be put in place, not just an ad hoc process whereby suddenly someone gets up and decides we are going to destaff the lighthouses. The minimal amount of dollars that it costs throughout the country pales in comparison to the services that are provided. I was delighted, and it certainly showed the committee that the work we did was not just an effort of futility, that it was something the minister took to heart and took very seriously, and the recommendation we made was listened to and especially followed up on.

I would quickly go to Recommendation 4:

The Committee recommends that a comprehensive cost-benefit analysis be undertaken on the full range of services provided by staffed lightstations prior to any further discussion or evaluation of Canada's lightstations.

It is not just about the light, honourable senators. It is about other services that are provided by the people who operate those lightstations and lighthouses, and the services they continue to provide over the years to the people who are on the water.



As a Newfoundlander and Labradorian, I was pleased to participate in this process. It is an important issue in our province, as it is in British Columbia. It was an opportunity to hear from local people and certainly to take to heart what they were saying, and we are delighted with the results of this report.

With that, honourable senators, I would like to thank the committee members for the time and effort that they put into the study, and I move that the report be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Fisheries and Oceans being identified as the minister responsible for responding to the report.

(On motion of Senator Hubley, debate adjourned.)

### THE SENATE

#### MOTION TO RECOGNIZE DECEMBER 10 OF EACH YEAR AS HUMAN RIGHTS DAY— DEBATE ADJOURNED

**Hon. Mobina S.B. Jaffer**, pursuant to notice of June 9, 2011, moved:

That the Senate of Canada recognize the 10th of December of each year as Human Rights Day as has been established by the United Nations General Assembly on the 4th of December, 1950.

She said: Honourable senators, I rise today to speak on the motion requesting that the Senate of Canada recognize December 10 of each year as Human Rights Day as was established by the United Nations General Assembly on December 4, 1950. This, in fact, is not a new motion. I brought up the same motion in early December with the hope that it would be adopted in time for December 10, Human Rights Day. However, this did not occur. Due to a number of reasons, this motion was delayed and eventually died on the Order Paper.

However, with a new Parliament in session now, I believe the recognition of the Human Rights Day by the Senate is more crucial today than it was when it was first introduced last year. The reality is that, throughout history, human rights violations have always been a common practice. Individuals from every country in the world have had their basic rights violated, and many of these types of violations continue to this day.

The creators of the Universal Declaration of Human Rights understood this.

**The Hon. the Speaker:** In a very short period of time, we will automatically adjourn at 4 p.m.

(On motion of Senator Jaffer, debate adjourned.)

(The Senate adjourned until Thursday, October 20, 2011, at 1:30 p.m.)



## CONTENTS

Wednesday, October 19, 2011

	PAGE		PAGE
<b>SENATORS' STATEMENTS</b>			
<b>Mental Illness Awareness Week</b>		<b>National Defence</b>	
Hon. Roméo Antonius Dallaire . . . . .	378	Recruitment Levels.	
<b>2011 Nobel Peace Prize Laureates</b>		Hon. Michael A. Meighen . . . . .	382
Hon. Suzanne Fortin-Duplessis . . . . .	378	Hon. Marjory LeBreton . . . . .	382
<b>Drug Treatment Programs</b>		<b>Public Safety</b>	
Hon. Larry W. Campbell . . . . .	379	Aboriginal Women in Prison.	
<b>Mackenzie Gas Project</b>		Hon. Céline Hervieux-Payette . . . . .	382
Hon. Dennis Glen Patterson . . . . .	379	Hon. Marjory LeBreton . . . . .	383
<b>Captain Joshua Slocum</b>		Juvenile Offenders.	
Hon. Terry M. Mercer . . . . .	379	Hon. Céline Hervieux-Payette . . . . .	383
<b>Mr. Lewis MacKinnon</b>		Hon. Marjory LeBreton . . . . .	383
Congratulations on Appointment as Scottish Bard.		Impact of Public Safety Legislation.	
Hon. Michael L. MacDonald . . . . .	380	Hon. Céline Hervieux-Payette . . . . .	383
<b>Ukrainian Shumka Dancers</b>		Hon. Marjory LeBreton . . . . .	383
Hon. Tommy Banks . . . . .	380	Hon. Tommy Banks . . . . .	384
<hr/>			
<b>ROUTINE PROCEEDINGS</b>			
<b>Property Qualification of Senators</b>		<b>ORDERS OF THE DAY</b>	
Report Tabled . . . . .	380	<b>Federal Law—Civil Law Harmonization Bill, No. 3 (Bill S-3)</b>	
<b>Visitors in the Gallery</b>		Second Reading—Debate Adjourned.	
The Hon. the Speaker . . . . .	380	Hon. John D. Wallace . . . . .	385
<b>Fisheries and Oceans</b>		Hon. Claudette Tardif . . . . .	385
Notice of Motion to Authorize Committee to Study		<b>World Autism Awareness Day Bill (Bill S-206)</b>	
Management of Grey Seal Population off Canada's East Coast.		Second Reading—Debate Adjourned.	
Hon. Fabian Manning . . . . .	381	Hon. Jim Munson . . . . .	385
<hr/>			
<b>QUESTION PERIOD</b>			
<b>Aboriginal Affairs and Northern Development</b>		<b>Visitors in the Gallery</b>	
Opportunities for Aboriginal Youth.		The Hon. the Acting Speaker . . . . .	387
Hon. Roméo Antonius Dallaire . . . . .	381	<b>Medical Devices Registry Bill (Bill S-202)</b>	
Hon. Marjory LeBreton . . . . .	381	Second Reading—Debate Adjourned.	
University of the Arctic.		Hon. Mac Harb . . . . .	387
Hon. Lillian Eva Dyck . . . . .	382	Hon. Joan Fraser . . . . .	387
Hon. Marjory LeBreton . . . . .	382	Hon. Gerald J. Comeau . . . . .	387
Opportunities for Aboriginal Youth.		Hon. Elizabeth (Beth) Marshall . . . . .	388
Hon. Terry M. Mercer . . . . .	382	Hon. Claudette Tardif . . . . .	388
Hon. Marjory LeBreton . . . . .	382	Hon. Claude Carignan . . . . .	388
<hr/>			
<b>Study on Issues Relating to Federal Government's Current and Evolving Policy Framework for Managing Fisheries and Oceans</b>			
Second Report of Fisheries and Oceans Committee—			
Debate Adjourned.			
Hon. Fabian Manning . . . . . 391			
<hr/>			
<b>The Senate</b>			
Motion to Recognize December 10 of Each Year			
as Human Rights Day—Debate Adjourned.			
Hon. Mobina S. B. Jaffer . . . . . 393			

















*If undelivered, return COVER ONLY to:*  
Public Works and Government Services Canada  
Publishing and Depository Services  
Ottawa, Ontario K1A 0S5

